No. 14-1209

IN THE

Supreme Court of the United States

JOHN STURGEON,

Petitioner,

v.

BERT FROST, IN HIS OFFICIAL CAPACITY AS ALASKA REGIONAL DIRECTOR OF THE NATIONAL PARK SERVICE, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF *AMICUS CURIAE* SAFARI CLUB INTERNATIONAL IN SUPPORT OF PETITIONER

ANNA M. SEIDMAN
Counsel of Record
DOUGLAS S. BURDIN
SAFARI CLUB INTERNATIONAL
501 Second Street NE
Washington, DC 20002
(202) 543-8733
aseidman@safariclub.org

Counsel for Amicus Curiae Safari Club International

November 23, 2015

262675

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

Library of Congress
Law Library

TABLE OF CONTENTS

Page

TABLE OF CONTENTS..... i

TABLE OF CITED AUTHORITIES ii

INTEREST OF *AMICUS CURIAE* 1

SUMMARY OF THE ARGUMENT..... 3

ARGUMENT.....5

A. This Court Must Avoid an Interpretation of Law that Would Yield Absurd Results.....5

B. The NPS's Exercise of Authority Over Waters Within CSU Boundaries, Through a Nationwide Regulation, Deprives Hunters of Access to Hunting Opportunities 10

C. The District Court and Ninth Circuit Rulings Deprive Hunters of Aircraft Access to Hunting Opportunities 11

CONCLUSION 20

TABLE OF CITED AUTHORITIES

Page

CASES

Haggar Co. v. Helvering,
308 U.S. 389 (1940) 5

McNary v. Haitian Refugee Ctr., Inc.,
498 U.S. 479 (1991) 5

Perry v. Commerce Loan Co.,
383 U.S. 392 (1966) 6

Pub. Citizen v. Dep't of Justice,
491 U.S. 440 (1989) 6

Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council,
506 U.S. 194 (1993) 5

Safari Club Int'l et al. v. Demientieff et al.,
No. 98–0414 (D. Alaska, HRH) 1

United States v. Am. Trucking Ass'ns.,
310 U.S. 534 (1940) 6

STATUTES AND OTHER AUTHORITIES

16 U.S.C. § 3102(4) 2

16 U.S.C. § 3103(c) ..... *passim*

Cited Authorities

Page

16 U.S.C. § 3201 12

16 U.S.C. § 410hh 12

16 U.S.C. § 410hh-1 12

36 C.F.R. § 1.2 13

36 C.F.R. § 1.2(a)(3) 11

36 C.F.R. § 2.1(a)(1)(ii) 9

36 C.F.R. § 2.1(a)(4) 9

36 C.F.R. § 2.3 8

36 C.F.R. § 2.17 13

36 C.F.R. § 2.17(a) 4, 11

36 C.F.R. § 13.35(c)(1) 9

36 C.F.R. § 13.35(c)(4) 9

36 C.F.R. § 13.40 7

36 C.F.R. § 13.40(d) 12

80 Fed. Reg. 64325 (Oct. 23, 2015) 7, 8

Cited Authorities

Page

Internal Revenue Code § 501(c)(4) 1

Sup. Ct. R. 37 1

Sup. Ct. R. 37(1) 2

ALASKA DEPARTMENT OF FISH AND GAME, BISON HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=bisonhunting.main 15

ALASKA DEPARTMENT OF FISH AND GAME, BROWN/GRIZZLY BEAR HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=brownbearhunting.main 15

ALASKA DEPARTMENT OF FISH AND GAME, CARIBOU HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=caribouhunting.main 15

ALASKA DEPARTMENT OF FISH AND GAME, DALL SHEEP HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=sheephunting.main 16

ALASKA DEPARTMENT OF FISH AND GAME, GOAT HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=goathunting.main 16

Cited Authorities

Page

ALASKA DEPARTMENT OF FISH AND GAME, INTRODUCTION TO ALASKA BIG GAME HUNTING, http://www.adfg.alaska.gov/index.cfm?adfg=hunting.biggameintro 15

ALASKA DEPARTMENT OF FISH AND GAME, MOOSE HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=moosehunting.main 16

ALASKA DEPARTMENT OF FISH AND GAME, SPORT FISHERIES, http://www.adfg.alaska.gov/index.cfm?adfg=fishingSport.main 14

ALASKA DEPARTMENT OF FISH AND GAME, SITKA BLACK-TAILED DEER HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=deerhunting.main 16

ALASKA DEPARTMENT OF FISH AND GAME, WATERFOWL HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=waterfowlhunting.main 17

ALASKA DEPARTMENT OF FISH AND GAME, WOLF HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=wolfhunting.opportunities 17

Cited Authorities

Page

Alaska Sport Fishing Survey, Statewide, ALASKA DEPARTMENT OF FISH AND GAME, http://www.adfg.alaska.gov/sf/sportfishingsurvey/index.cfm?ADFG=region.home 14

Annual Report 2006, http://home.nps.gov/yuch/learn/management/upload/2006_YUCH_Annual_Report.pdf 8

NATIONAL PARK SERVICE, GATES OF THE ARCTIC, DIRECTIONS, http://www.nps.gov/gaar/planyourvisit/directions.htm 13

NATIONAL PARK SERVICE, KATMAI, SPORT HUNTING AND TRAPPING, http://www.nps.gov/katm/planyourvisit/hunting.htm 13

The McDowell Group, *The Economic Impacts of Guided Hunting in Alaska*, (February 2014), http://alaskaprohunter.org/Economic_Impacts_of_Guided_Hunting_Final.pdf 17, 18

INTEREST OF *AMICUS CURIAE*[1]

Safari Club International ("Safari Club") is a nonprofit corporation incorporated in the State of Arizona, operating under § 501(c)(4) of the Internal Revenue Code, with principal offices and places of business in Tucson, Arizona and Washington, D.C. and a membership of approximately 48,000. Safari Club's missions are the conservation of wildlife, protection of the hunter, and education of the public concerning hunting and its use as a conservation tool. Safari Club carries out its conservation mission in part through its sister organization, Safari Club International Foundation.

Safari Club has long been involved in litigation and other advocacy efforts to promote hunting, access to hunting, and sustainable-use conservation, including hunting opportunities on federal and other lands in Alaska. For almost a decade, Safari Club pursued litigation to challenge the Federal Subsistence Board's administration of subsistence priorities for hunting and wildlife resources on federal lands in Alaska and the composition of the federal advisory councils that provided recommendations on the allocation of those priorities. *Safari Club Int'l et al. v. Demientieff et al.* No. 98–0414 (D. Alaska, HRH).

---

1. The following is provided pursuant to Supreme Court Rule 37. No counsel for a party authored this brief in whole or in part, and no counsel for a party and no party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than named *amicus curiae* made a monetary contribution to this brief. Counsel of Record for Petitioner consented to the filing of *amicus curiae* briefs in support of either or of neither party. Counsel of Record for Respondents has consented to the filing of this brief.

In addition, Safari Club has participated or is currently participating in lawsuits involving, among other things, the listing and delisting of numerous species under the Endangered Species Act, states' authority and ability to manage wildlife populations via hunting, the U.S. Forest Service's application of the Roadless Rule on National Forest System lands, and the ability of hunters to import sport-hunted trophies into the U.S. from international hunts.

In this amicus brief, Safari Club will "bring[] to the attention of the Court relevant matter not already brought to its attention by the parties." Sup. Ct. R. 37(1). This brief provides information that will "be of considerable help to the Court." *Id.* This brief includes the view of both resident and nonresident hunters who enjoy Alaska's world-class hunting resources and opportunities and who require transportation on the waters that exist within the boundaries of Conservation System Units ("CSUs") administered by the Respondent National Park Service ("NPS").[2] Access to hunting areas and opportunities is of primary concern to Safari Club, its members, and many other hunters throughout the United States and the world.

---

2. CSUs in Alaska include "any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of [the Alaska National Interest Lands Conservation Act of 1980], additions to such units, and any such unit established, designated, or expanded hereafter." 16 U.S.C. § 3102(4); *see also* John Sturgeon's Opening Brief at 5 n.1. For the purposes of this brief, all references to CSUs include only those CSU lands administered by the NPS.

In Alaska, hunters often face significant obstacles to access hunting areas due to limited road coverage and the isolated nature of many valued hunting locations. Access to those opportunities depends upon hunters' ability to use all means of travel on rivers and other navigable waters in CSUs in Alaska. Safari Club and its members, along with the hunting community generally, seek to protect the full range of hunting and sustainable-use conservation opportunities available in Alaska.

SUMMARY OF THE ARGUMENT

Safari Club agrees with the arguments presented in the Opening Brief filed by Petitioner John Sturgeon. The plain meaning of Section 103(c) (16 U.S.C. § 3103(c)) of the Alaska National Interest Lands Conservation Act ("ANILCA") prohibits the application of NPS regulations to activities conducted on non-federal lands and waters located within CSUs in Alaska. Any statutory interpretation of Section 103(c) to the contrary would lead to an absurd result – one that would impose, through application of a nation-wide regulation, different use requirements for non-federal lands and waters within the CSUs than for lands and waters properly administered by the federal government and subject to Alaska-specific land use regulations. For this reason, even if Section 103(c)'s language *could* be read to impose such restrictions on activities taking place on non-federal lands and waters, this Court should follow fundamental statutory construction principles that require the avoidance of such nonsensical interpretations. Accepting Sturgeon's interpretation will achieve this goal.

Safari Club files this amicus brief in support of Sturgeon because this Court's ruling will extend far beyond John Sturgeon's personal hovercraft use. The Court's interpretation of ANILCA Section 103(c) will decide whether hunters, guides, and outfitters, many of whom are Safari Club members, will be able to access congressionally-mandated recreational activities available within and outside the boundaries of federal lands in Alaska.

The ability to access hunting areas is essential to the hunter. In Alaska, hunting opportunities are often found in isolated, difficult to reach places, to which there is no road access. A viable, and often the most viable, means of access to hunting locations is air travel by float plane. The NPS's decision, upheld by both the federal district court in Alaska and the Ninth Circuit Court of Appeals, that the NPS has the authority to regulate activity on the non-federal waters that exist within CSU boundaries through nation-wide regulations, poses a severe threat to all who wish to hunt in these inaccessible locations. The NPS's interpretation of Section 103(c) triggers the application of 36 C.F.R. § 2.17(a) and its prohibition against the use of aircraft on waters to non-federal waters in Alaska's CSUs. The regulatory ban against float planes landing on the majority of those waters will make it impossible for both resident and non-resident hunters and their guides to reach many hunting locations within and around CSUs, including many National Preserves. Despite the fact that Congress mandated the authorization of hunting in Alaska's National Preserves, the NPS has thwarted Congress's directive by applying regulations in a way that undermines hunters' abilities to access and use National Preserves for hunting.

ARGUMENT

A. This Court Must Avoid an Interpretation of Law that Would Yield Absurd Results

Petitioner Sturgeon correctly asserts that the plain meaning of ANILCA Section 103(c) prohibits the application of NPS regulations, including those intended for use nation-wide throughout the National Park System, to control and/or restrict conduct on non-federal lands and waters located within Alaska CSU boundaries. Sturgeon asks this Court to adopt an interpretation that avoids the illogical scenario in which the NPS must impose greater, and less Alaska-specific, requirements for the use of lands and waters outside of their authority than on the very lands and waters Congress directed them to administer.

When this Court determines the meaning of a statutory phrase it does so with the assumption that Congress is aware that the Court will avoid an interpretation that leads to absurd results. *Haggar Co. v. Helvering*, 308 U.S. 389, 394 (1940). "It is presumable that Congress legislates with knowledge of our basic rules of statutory construction . . . ." *Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 200-01 (1993) quoting *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 496 (1991). This Court must assume that, in its drafting of ANILCA, Congress did not intend the law to authorize illogical results.

Throughout this litigation, the NPS has disagreed with Sturgeon's interpretation, asserting instead that the plain meaning of Section 103(c) is exactly the opposite. Even if the Court were to give some credit to the NPS's

interpretation of the law's plain meaning, this Court cannot adopt such an interpretation because it would lead to an absurd result – the NPS having authority to impose different and potentially stricter and less Alaska-specific use restrictions on non-federal lands and waters than they impose on federal lands and waters administered by the agency. In such a case, the Court is required to "look beyond the words" of the statute:

> There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes. Often these words are sufficient in and of themselves to determine the purpose of the legislation. In such cases we have followed their plain meaning. When that meaning has led to absurd or futile results, however, this Court has looked beyond the words to the purpose of the act.

United States v. Am. Trucking Ass'ns., 310 U.S. 534, 543 (1940) (Court interpreted term "employee" to determine power of ICC to establish requirements for qualifications and standards for employees of motor carriers) (internal citations omitted); *see also Perry v. Commerce Loan Co.*, 383 U.S. 392, 400 (1966); *Pub. Citizen v. Dep't of Justice*, 491 U.S. 440, 454, (1989) (Court acknowledged its obligation to look beyond statutory language when plain meaning of text leads to "odd result").

In his Opening Brief, Sturgeon pointed out that if the NPS adopted an Alaska-specific regulation allowing the use of personal hovercrafts, "then State, Alaska Native, and private lands within those parks would, paradoxically,

remain subject to the more restrictive nationwide rule." Petitioner Br. at 32. As Sturgeon explains, under this scenario, the NPS's interpretation of Section 103(c) would lead to an absurd result by subjecting federal waters to the specific, permissive regulation, but non-federal waters to the more restrictive nation-wide rule.

The nonsensical scenario described in Sturgeon's Opening Brief currently extends to fishing on National Park units in Alaska, as a result of recently adopted NPS regulations. The NPS recently finalized new rules that allow a method of fishing on federal land within CSU boundaries in Alaska that is prohibited elsewhere by a separate nationally-applicable NPS regulation.[3] The Alaska-specific regulation provides that the "[u]se of species native to Alaska as bait for fishing is allowed in accordance with non-conflicting State law and regulations." 36 C.F.R. § 13.40; 80 Fed. Reg. 64325, 64343 (Oct. 23, 2015). The NPS explains in the preamble that the new regulation:

> Allows the use of native species as bait, commonly salmon eggs, for fishing in accordance with applicable federal and non-conflicting State law. This supersedes for park areas in Alaska the National Park System-wide prohibition on using certain types of bait in 36 CFR 2.3(d)(2).

---

3. While the NPS's new regulations relate primarily to restricting certain hunting methods in Park Service lands in Alaska, this one provision authorizes a method of fishing that is prohibited by regulations applicable throughout the National Park System.

80 Fed. Reg. at 64327.[4]

The NPS's statutory interpretation of Section 103(c) would yield the absurd result that the use of native fish species as bait would be allowed on federally-owned lands and waters within the boundaries of a CSU in Alaska, but not on non-federal lands and waters (*i.e.*, State, Alaska Native, and private) located within the same unit. For example, an angler fishing in a National Preserve in Alaska could use native fish as bait on a federal lake but could not use such bait if fishing in a nearby non-federal river.[5] This nonsensical statutory interpretation defies statutory construction principles.

---

4. The nationally-applicable regulation, Section 2.3(d)(2) prohibits:

> Possessing or using as bait for fishing in fresh waters, live or dead minnows or other bait fish, amphibians, nonpreserved fish eggs or fish roe, except in designated waters. Waters which may be so designated shall be limited to those where nonnative species are already established, scientific data indicate that the introduction of additional numbers or types of non-native species would not impact populations of native species adversely, and park management plans do not call for elimination of non-native species.

36 C.F.R. § 2.3.

5. The Preserve at issue in this case, the Yukon-Charley Rivers National Preserve, contains numerous lakes, presumably at least some of which are non-navigable and owned by the NPS. *See* Annual Report 2006, http://home.nps.gov/yuch/learn/management/upload/2006_YUCH_Annual_Report.pdf (describing numerous lakes within Preserve) (visited Nov. 18, 2015).

Instead, the only reasonable interpretation of Section 103(c) is that the nationally-applicable fishing regulation should apply solely to NPS administered *federal* lands and waters other than those lands and waters subject to Alaska specific regulations. The nationally-applicable NPS fishing regulations, like the Alaska-specific fishing regulations, would not apply to State, Alaska Native, and private lands and waters within CSU's in Alaska. Fishing activities conducted on State, Alaska Native and private lands and waters within the CSU would be governed by Alaska State regulations.

The NPS's interpretation of Section 103(c) would lead to a similarly absurd outcome in regard to the collection of berries and/or firewood on the shores of waters within CSU boundaries. An Alaska-specific regulation authorizes the collection of "natural plant food items, including fruits, berries and mushrooms," 36 C.F.R. § 13.35(c)(1)[6] and "[d]ead wood on the ground for use as fuel for campfires within the park area" on most park areas in Alaska, *id.* § 13.35(c)(4). A different regulation, applicable to National Park units nation-wide, prohibits the removal or possession of "[p]lants or the parts or products thereof," 36 C.F.R. § 2.1(a)(1)(ii), and "[u]sing or possessing wood gathered from within the park area," *id.* § (a)(4). If the NPS's interpretation of Section 103(c) would apply, an individual would be permitted to collect berries, and/or firewood on federal lands within a CSU, but could not do so on State, Alaska Native and private lands within

6. The regulation gives the superintendent of the Park unit discretion to authorize some gathering where he determines it will not adversely affect park wildlife or resources. 36 C.F.R. § 13.35(c)(1).

the same CSU boundaries. The NPS would be imposing greater (and less Alaska-specific) restrictions on lands that they do not own or administer than on the lands under their statutory authority. This Court should not accept an interpretation that leads to such an irrational outcome.

B. The NPS's Exercise of Authority Over Waters Within CSU Boundaries, Through a Nationwide Regulation, Deprives Hunters of Access to Hunting Opportunities

Petitioner John Sturgeon filed suit in federal district court in Alaska to challenge the NPS's exercise of authority to prohibit Sturgeon from operating his hovercraft on navigable waters flowing within the boundaries of the Yukon-Charley Rivers National Preserve. Sturgeon, a hunter, used his hovercraft to travel to favored moose hunting locations in Alaska. The authority that Sturgeon challenges, and that the district court and Ninth Circuit each upheld, impacts far more than his ability to visit a moose hunting area or even the ability of hunters generally to use hovercrafts within the boundaries of CSUs in Alaska. This authority threatens the ability of hunters and guides generally throughout Alaska to access hunting opportunities located both inside and outside the boundaries of CSUs managed by the NPS. Unless this Court rejects the district court and Ninth Circuit's interpretation of the NPS's authority to regulate activity on non-federal lands and waters within CSU boundaries, hunters will be deprived of essential means of transportation to the remote hunting opportunities in and near many of the lands administered by the NPS in Alaska.

C. The District Court and Ninth Circuit Rulings Deprive Hunters of Aircraft Access to Hunting Opportunities

Float planes, because they can land on water, provide an essential means of transportation for hunters in Alaska. The use of float planes in CSUs is at risk because of the rulings in this case. The Ninth Circuit, affirming the ruling of the district court, upheld the NPS's asserted authority, to regulate activities on

> navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of the tide and up to the ordinary high water mark in other places) and without regard to the ownership of submerged lands, tidelands, or lowlands

36 C.F.R. § 1.2(a)(3). Not only would that authority enable the NPS to prohibit the use of hovercrafts on such waters within the boundaries of CSUs administered by the NPS, but pursuant to 36 C.F.R. § 2.17(a), it would also result in the prohibition against the use of most types of aircraft on those waters:

> (a) The following are prohibited:
>
> (1) Operating or using aircraft on lands or waters other than at locations designated pursuant to special regulations.

Id. § 2.17(a).

A prohibition on aircraft use of waters within CSU boundaries has a major impact on hunter access to hunting opportunities in Alaska. The NPS administers approximately 43,522,000 acres of CSU lands in the State. 16 U.S.C. §§ 410hh, 410hh-1. Almost half of those lands were established under ANILCA as National Preserves, including the Anakchak (~ 367,000 acres), Bering Land Bridge (~ 2,457,000 acres), Denali (~ 1,330,000 acres), Gates of the Arctic (~ 900,000 acres), Glacier Bay (~ 57,000 acres), Katmai (~ 308,000 acres), Lake Clark (~ 1,214,000 acres), Noatak (~ 6,460,000 acres), Wrangell-St. Elias (~ 4,117,000 acres), and Yukon-Charley Rivers National Preserves (~ 1,713,000 acres) (totaling ~ 18,923,000 acres). *Id.* National Preserves are a major component of the lands in Alaska open to hunting.

Alaska's National Preserves, like many lands in the State, are actively hunted. Congress specifically mandated that the NPS authorize hunting on National Preserves in Alaska.

> A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping ***shall be allowed in a national preserve*** under applicable State and Federal law and regulation.

16 U.S.C. § 3201 (emphasis added); *see also* 36 C.F.R. § 13.40(d).

Although Alaska's National Preserves are open to hunting, access to that hunting can be difficult. Few roads run through or access all areas of those Preserves. Several of the National Preserves cannot be reached by road at all. For example, boats and aircraft provide the only access to Katmai National Park and Preserve. "Hunting and trapping within Katmai National Preserve requires extensive planning. Access in most cases will involve air taxi service via float plane from King Salmon or one of the other surrounding villages." NATIONAL PARK SERVICE, KATMAI, SPORT HUNTING AND TRAPPING, http://www.nps.gov/katm/planyourvisit/hunting.htm (last visited Nov. 19, 2015). Similarly, no roads lead into Gates of the Arctic National Park. "Most visitors access the park by air taxi, in small aircraft equipped with floats or tundra tires." NATIONAL PARK SERVICE, GATES OF THE ARCTIC, DIRECTIONS, http://www.nps.gov/gaar/planyourvisit/directions.htm (last visited Nov. 19, 2015).

Hunters need to be able to land float planes on the waters running through National Preserves to reach the bear, moose, caribou, sheep, goat and other species that Congress directed the NPS to make available to them to hunt. The NPS's regulation, 36 C.F.R. § 2.17, if broadly extended to all non-federal waters running through National Preserves by 36 C.F.R. § 1.2, could largely prohibit the use of aircraft on those waters. With diminished ability to reach those hunting opportunities by float plane, hunters will lose the access they require to participate in the National Preserve hunting that Congress mandated.

The world-class hunting opportunities in Alaska are not only important to Alaska residents, but to the residents

of all the states (and other countries). Nonresidents flock to Alaska to experience some of the best hunting in the world.[7] As the Alaska Department of Fish and Game ("Department") explains:

> Alaska's hunting reputation is justly deserved. One-fifth the size of the entire United States, Alaska offers wilderness hunting opportunities found in few other locations in the world. It is true that huge moose occur here and that vast caribou herds dominate the landscape in some areas and seasons. Numerous mountain ranges support populations of Dall sheep and mountain goats, and Sitka black-tailed deer thrive in the coastal forests. Once extirpated from the state, muskox now range over the western and arctic coastal wilderness. Large numbers of black and brown bear also exist here. And wolves, which are found across most of the state, are also abundant in some areas.

---

7. While *amicus curiae* Safari Club is a hunting/conservation organization, many of its members also enjoy or make their livelihoods from fishing. Like hunting, fishing is extremely popular in Alaska. The estimated number of anglers in Alaska in 2014 was 470,470 and the number of angler-days fished in Alaska in 2014 was 2,309,853. Alaska Sport Fishing Survey, Statewide, ALASKA DEPARTMENT OF FISH AND GAME, http://www.adfg.alaska.gov/sf/sportfishingsurvey/index.cfm?ADFG=region.home (use the "Get Data" button in the "Regional Effect Summary" box to access charts containing these figures) (last visited Nov. 19, 2015). As the Department states "[g]ood sport fishing isn't hard to find in Alaska. In fact, in this land of 3,000 rivers, 3 million lakes and 6,640 miles of coastline, a sport fisher's greatest challenge can be deciding where to get started." ALASKA DEPARTMENT OF FISH AND GAME, SPORT FISHERIES, http://www.adfg.alaska.gov/index.cfm?adfg=fishingSport.main (last visited Nov. 19, 2015).

ALASKA DEPARTMENT OF FISH AND GAME, INTRODUCTION TO ALASKA BIG GAME HUNTING, http://www.adfg.alaska.gov/index.cfm?adfg=hunting.biggameintro (last visited Nov. 19, 2015). Because of its climate and terrain, Alaska offers some of the most challenging hunting in the United States. *Id.* The Department describes some of the animals that Alaska residents and nonresidents hunt:

- "Hunting is used to manage the size of these herds, and bison hunts are among the most popular drawing hunts in Alaska." ALASKA DEPARTMENT OF FISH AND GAME, BISON HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=bisonhunting.main (last visited Nov. 19, 2015).

- "Alaska has an estimated 30,000 brown bears statewide. In 2007, about 1,900 brown bears were harvested in Alaska. Of that figure, about 700 were taken by Alaska residents and roughly 1,200 (or 67 percent) were taken by nonresidents." ALASKA DEPARTMENT OF FISH AND GAME, BROWN/GRIZZLY BEAR HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=brown bearhunting.main (last visited Nov. 19, 2015).

- "On average, people harvest about 22,000 caribou in Alaska each year." ALASKA DEPARTMENT OF FISH AND GAME, CARIBOU HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=caribouhunting.main (last visited Nov. 19, 2015).

- "Alaska's Dall sheep are popular with nonresident hunters, and the harvest is split fairly evenly between residents and nonresidents. In 2007,

for example, nonresidents took 403 sheep, while resident hunters took 513, or about 57 percent." ALASKA DEPARTMENT OF FISH AND GAME, DALL SHEEP HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=sheephunting.main (last visited Nov. 19, 2015).

- "Between 1987 and 2007, an average annual harvest of about 12,330 deer has occurred in Alaska." ALASKA DEPARTMENT OF FISH AND GAME, SITKA BLACK-TAILED DEER HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=deerhunting.main (last visited Nov. 19, 2015).

- "Alaskans and nonresidents annually harvest 6,000 to 8,000 moose, which translates into about 3.5 million pounds of usable meat." ALASKA DEPARTMENT OF FISH AND GAME, MOOSE HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=moosehunting.main (last visited Nov. 19, 2015).

- "In 2007, 518 mountain goats were harvested in Alaska, 158 by nonresidents (about 30 percent) and 360 by resident hunters." ALASKA DEPARTMENT OF FISH AND GAME, GOAT HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=goathunting.main (last visited Nov. 19, 2015).

- "Whether decoying brant over eel grass beds at Cold Bay, jump-shooting dabblers on Minto Flats, or waiting in a pit blind for a crack at

> speckle bellies in Delta, the variety of bird species hunted and the diversity of hunting venues are unique to the state. . . . If you are new to the state or a non-resident, you may feel that hiring a Migratory Bird Hunting Guide would be a good way to go." There are "[a]pproximately 8,800 waterfowl hunters in Alaska . . . ." ALASKA DEPARTMENT OF FISH AND GAME, WATERFOWL HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=waterfowlhunting.main (last visited Nov. 19, 2015).

- "Wolves may be harvested with a hunting license and/or a trapping license. Nonresident wolf tags are only $30 . . . ." ALASKA DEPARTMENT OF FISH AND GAME, WOLF HUNTING IN ALASKA, http://www.adfg.alaska.gov/index.cfm?adfg=wolfhunting.opportunities (last visited Nov. 19, 2015).

In addition to being extremely popular, hunting supports Alaska's economy and provides a living to many guides and outfitters, who mainly cater to nonresidents. Hunting also benefits others who provide services to the out-of-state visitors. As described in the report *Economic Impacts of Guided Hunting in Alaska,* prepared by the McDowell Group, Inc. for the Alaska Professional Hunters Association, (February 2014):

> In 2012, guides contracted with 3,207 hunters, 3,055 of them nonresidents. In total, hunters spent $51 million on guided hunts. Of the total, nonresident hunters spent an estimated $48 million. In addition to hunting packages, non-resident hunters and their companions

> spent another $3.5 million on lodging, food and beverage, clothing, souvenirs, and outdoor equipment, among other purchases while in Alaska. Dollars spent in Alaska by non-residents provides new dollars that help support the state's economy.
>
> Including $29.5 million in direct and indirect (multiplier effects) associated with this spending, guided hunting in Alaska accounted for $78 million in total economic activity in 2012.

The McDowell Group, *The Economic Impacts of Guided Hunting in Alaska*, 1 (February 2014), http://alaskaprohunter.org/Economic_Impacts_of_Guided_Hunting_Final.pdf (last visited Nov. 19, 2015). The report also noted that a significant percentage of the guided hunting occurred on federal lands, including NPS lands:

> Contracting guides reported that . . . [a]lmost half of revenue was earned hunting on federal lands, including US Fish and Wildlife Service (22 percent), US Forest Service (11 percent), ***NPS (9 percent)***, and BLM (4 percent). Eight percent was derived from private land (including Alaska Native Corporation land)."

Id. at 9 (emphasis added). As examples of some of the opportunities available in NPS lands in Alaska, the following outfitters offer guided hunts for desirable big game species: Alaska Remote Guide Service (brown/black bear, moose, and dall sheep in Denali National Preserve), http://www.alaskaremote.com/denali.htm (last visited Nov. 19, 2015); Wrangell Outfitters (moose

hunts in Wrangell, St. Elias National Preserve), http://www.wrangelloutfitters.com/guided-hunts/alaska-moose-hunting/ (last visited Nov.19, 2015); Mountain Monarchs of Alaska (grizzly bear, moose, caribou and Dall sheep in Noatak National Preserve), http://www.mountainmonarchs.com/western-arctic-moose-grizzly-bear-caribou-guide-service.html (last visited Nov. 19, 2015). The outcome of this case will affect all of these world-class hunting and fishing opportunities.

CONCLUSION

Safari Club asks this Court to reverse the rulings of the Ninth Circuit and district court and to interpret ANILCA Section 103(c) in accordance with the plain meaning of its statutory language and in a way that does not produce a nonsensical result under which the NPS will impose different and potentially greater use restrictions on State, Alaska Native, and private lands than on federal lands.

Safari Club seeks a ruling from this Court that will prevent the NPS from having the ability to exercise authority over the use of non-federal lands and waters within CSUs in ways that will make it more difficult, if not impossible, for hunters to travel to valued hunting sites and enjoy Alaska's wildlife resources.

Respectfully submitted,

ANNA M. SEIDMAN
Counsel of Record
DOUGLAS S. BURDIN
SAFARI CLUB INTERNATIONAL
501 Second Street NE
Washington, DC 20002
(202) 543-8733
aseidman@safariclub.org

Counsel for Amicus Curiae
Safari Club International

November 23, 2015